

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH E. ADAMS,

Plaintiffs,

-against-

PETER DeFOREST, individually, MICHAEL
BILLENS, individually, LISETTE HITSMAN, and
the TOWN OF UNION VALE,

Defendants.
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ANSWER

Docket No.
08 Civ. 4214 (KMK)

Defendants, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE
VERVENIOTIS, LLP, as and for their answer to the complaint in the above-captioned
action, set forth as follows:

1. Deny the allegations contained in ¶ “1” of the complaint, and refer all questions of law to the Court for adjudication.
2. Deny the allegations contained in ¶ “2” of the complaint, and refer all questions of law to the Court for adjudication.
3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “3” of the complaint, except admit that plaintiff, at all relevant times, was employed by defendant Town.
4. Deny the allegations contained in ¶ “4” of the complaint, and refer all questions of law to the Court for adjudication.
5. Deny the allegations contained in ¶ “5” of the complaint, and refer all questions of law to the Court for adjudication.
6. Admit the allegations contained in ¶ “6” of the complaint.

7. Admit the allegations contained in ¶ “7” of the complaint.
8. Deny the allegations contained in ¶ “8” of the complaint.
9. Deny the allegations contained in ¶ “9” of the complaint.
10. Deny the allegations contained in ¶ “10” of the complaint.
11. Deny the allegations contained in ¶ “11” of the complaint.
12. Deny the allegations contained in ¶ “12” of the complaint.
13. Deny the allegations contained in ¶ “13” of the complaint.
14. Deny the allegations contained in ¶ “14” of the complaint.
15. Deny the allegations contained in ¶ “15” of the complaint.
16. Deny the allegations contained in ¶ “16” of the complaint.
17. Deny the allegations contained in ¶ “17” of the complaint.
18. Deny the allegations contained in ¶ “18” of the complaint.
19. Deny the allegations contained in ¶ “19” of the complaint.
20. Deny the allegations contained in ¶ “20” of the complaint.
21. Deny the allegations contained in ¶ “21” of the complaint.
22. Deny the allegations contained in ¶ “22” of the complaint.
23. Deny the allegations contained in ¶ “23” of the complaint.
24. Deny the allegations contained in ¶ “24” of the complaint.
25. Deny the allegations contained in ¶ “25” of the complaint.
26. Deny the allegations contained in ¶ “26” of the complaint.
27. Deny the allegations contained in ¶ “27” of the complaint.
28. Deny the allegations contained in ¶ “28” of the complaint.
29. Deny the allegations contained in ¶ “29” of the complaint.

- 30. Deny the allegations contained in ¶ “30” of the complaint.
- 31. Deny the allegations contained in ¶ “31” of the complaint.
- 32. Deny the allegations contained in ¶ “32” of the complaint.
- 33. Deny the allegations contained in ¶ “33” of the complaint.
- 34. Deny the allegations contained in ¶ “34” of the complaint.
- 35. Deny the allegations contained in ¶ “35” of the complaint.

FIRST CLAIM

36. As and for a response to the allegations contained in ¶ “36” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “35” of the complaint, as though they were fully set forth herein.

37. Deny the allegations contained in ¶ “37” of the complaint, and refer all questions of law to the Court for adjudication.

SECOND CLAIM

38. As and for a response to the allegations contained in ¶ “38” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “35” of the complaint, as though they were fully set forth herein.

39. Deny the allegations contained in ¶ “39” of the complaint, and refer all questions of law to the Court for adjudication.

THIRD CLAIM

40. As and for a response to the allegations contained in ¶ “40” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “35” of the complaint, as though they were fully set forth herein.

41. Deny the allegations contained in ¶ “41” of the complaint, and refer all questions of law to the Court for adjudication.

FIRST AFFIRMATIVE DEFENSE

42. Plaintiff’s complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

43. The individual defendants are protected by qualified immunity.

THIRD AFFIRMATIVE DEFENSE

44. Defendant Lisette Hitsman is protected by absolute legislative immunity.

FOURTH AFFIRMATIVE DEFENSE

45. Plaintiff’s speech failed to relate to a matter of public concern.

FIFTH AFFIRMATIVE DEFENSE

46. Plaintiff’s speech was uttered pursuant to his official duties. See Garcetti v. Ceballos, 126 S.Ct. 1951 (2006).

SIXTH AFFIRMATIVE DEFENSE

47. Plaintiff’s complaint does not allege – and he cannot prove – that he was treated differently from anyone similarly situated.

SEVENTH AFFIRMATIVE DEFENSE

48. Plaintiff’s rights were not deprived pursuant to a policy, practice, custom, or procedure of the Town of Union Vale.

EIGHTH AFFIRMATIVE DEFENSE


49. Plaintiff has failed to mitigate his damages.

NINTH AFFIRMATIVE DEFENSE

50. Plaintiff has unclean hands.

Dated: Mineola, New York
July 7, 2008

MIRANDA SOKOLOFF SAMBURSKY
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